

September 12, 2006



Mr. Noah C. Hawk, Art Unit: 3636

From: Michael A. Zerillo, Inventor

Subject: Patent Application Number 10/737,330

Remarks – 2 sheets.

1. In response to paragraph 2 of the Office Action, applicant has submitted New Claim 4, replaced “comprises” with “comprising”, and marked Claims 1, 2 and 3 “Cancelled”.
2. In response to paragraph 4 of the Office Action, in New Claim 4, applicant deleted text that had “insufficient antecedent basis”. Additionally in New Claim 4, applicant utilizes the phrase, “the device being adapted to be removed from one patio umbrella and detachably attached to another patio umbrella”, as recommended in the Office Action.
3. In response to paragraphs 6 and 7 of the Office Action, and the new reference cited in Hung, US patent number 7,051,744, applicant describes how his device and claims are unique and distinguishable from Hung: Hung claims “A sunshade structure” in all claims 1 through 8. Hung specifically specifies a “structure”. Hung describes the “structure” as, “comprising: a hollow upright rod;”, “a drive motor mounted on a first end of the upright rod;”, “a slide slidably mounted on a mediate portion of the upright rod;”. Hung claims a patio umbrella that has a motor control built into its “structure”. Hung did not envision the need to “detachably attach” the motor to the sunshade structure, nor does he claim a retrofit capability. In contrast, Zerillo claims, “An electric device configured to open and close a patio umbrella, the device being adapted to be removed from one patio umbrella and detachable attached to another patio umbrella,”. The Zerillo device is not a part of the original patio umbrella structure. It is independent from the patio umbrella structure, and can “be removed from one patio umbrella and detachable attached to another patio umbrella”. The improvement taught by Zerillo is a retrofit

electric control device that can adapt to patio umbrellas and cause the umbrella to be opened and closed by a motor and switch means. The Zerillo device is unique and clearly distinguishable in the art because it can add motor control to an existing patio umbrella.